

ORDINANCE NO. 2010-11

HISTORIC PRESERVATION COMMISSION ORDINANCE

AN ORDINANCE REPEALING TITLE 12 HISTORIC PRESERVATION AND PROTECTION AND REPLACING IT WITH A NEW TITLE 12 HISTORIC PRESERVATION AND PROTECTION

WHEREAS, a Historic Preservation Commission was created by Ordinance 93-18 on August 2, 1993 and said Ordinance was re-affirmed by Ordinance 98-32 on July 6, 1998; and

WHEREAS, Ordinance No. 2003-18 reaffirmed and amended the powers of the Historic Preservation Commission for the City of Lafayette, Indiana, created in Ordinance No. 93-18; and

WHEREAS, any existing Local Historic Districts established under Ordinance No. 93-18, Ordinance No. 98-32, or Ordinance No. 2003-18 remain in effect and subject to the terms set forth in this Ordinance; and

WHEREAS, any existing Commissioner terms of service established under Ordinance No. 2003-18 remain in effect and subject to the terms set forth in this Ordinance; and

WHEREAS, the Lafayette Historic Preservation Commission has identified the need to re-draft the existing Ordinance as amended.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA, that:

1. All existing Local Historic Districts established under Ordinance No. 93-18, Ordinance No. 98-32, or Ordinance No. 2003-18 remain in effect and subject to the terms set forth in this Ordinance; and
2. The following amendments to Ordinance No. 93-18, Ordinance No. 98-32, and Ordinance No. 2003-18 are to remain in effect and subject to the terms set forth in this Ordinance:
  - Ordinance No. 94-13: An Amendment to Ordinance No. 93-18 Establishing a Local Downtown Historic District in the City of Lafayette, Indiana (8/2/94)
  - Ordinance No. 95-22: An Amendment to Ordinance No. 93-18 Establishing a Local Ninth Street Hill Historic District in the City of Lafayette, Indiana (8/7/95)
  - Ordinance No. 96-39: An Amendment to Ordinance No. 95-22 Inclusion of Certain Property in the Local Ninth Street Hill Historic District in the City of Lafayette, Indiana (301 S. 9th Street) (11/6/96)
  - Ordinance No. 98-15: An Amendment to Ordinance No. 93-18 Establishing a Local South 3rd Street Historic District in the City of Lafayette, Indiana (407-409 S. 3rd Street) (4/6/98)
  - Ordinance No. 98-16: An Amendment to Ordinance No. 95-22 Inclusion of Certain Property in the Local Ninth Street Hill Historic District in the

City of Lafayette, Indiana (212 S. 9th Street) (714 Kossuth Street) (802 Kossuth Street) (4/6/98)

- Ordinance No. 99-5: Amendment to Ordinance No. 95-22 Inclusion of Certain Property in the Local Ninth Street Hill Historic District in the City of Lafayette, Indiana (216 S. 9th Street) (221 S. 9th Street) (604 S. 9th Street) (3/1/99)
- Ordinance No. 99-22: An Amendment to Ordinance No. 95-22 Inclusion of Certain Property in the Local Ninth Street Hill Historic District in the City of Lafayette, Indiana (116 S. 9th Street) (118 S. 9th Street) (7/12/99)
- Ordinance No. 2002-54: An Amendment to Ordinance No. 98-32 Establishing a Local Upper Main Street Historic District (12/9/02)
- Ordinance No. 2009-05: An Ordinance Amendment to Ordinance 95-22 Inclusion of Certain Property in the Local Ninth Street Historic District Lafayette 111-113 S 9th Street (7/6/09)
- Ordinance No. 2010-04: An Amendment to Ordinance 2003-18 Establishing a Local Centennial Historic District in the City of Lafayette, Indiana (4/5/10)

3. Title 12, HISTORIC PRESERVATION AND PROTECTION, including Exhibit A is hereby repealed in its entirety and replaced as follows:

#### Chapter 12.01 GENERAL PROVISIONS

##### **12.01.010. Purpose**

- (a) Purpose of historic preservation and protection: in order to promote the educational, cultural and general welfare of the citizens of Lafayette and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional Downtown area and to enhance heritage tourism within the City of Lafayette; it is deemed essential by the City of Lafayette that qualities relating to its history and harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regards to style, form, proportion, texture, and material between historic buildings and those of contemporary design. It is the intention of the City of Lafayette through this ordinance to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods which impart a distinct aesthetic quality to the City and serve as visible reminders of its historic heritage.

##### **12.01.020. Definitions**

- (a) The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word

“person” includes a firm, a partnership, a limited liability company, or a corporation, as well as an individual. Terms not defined in this section have the meanings customarily assigned to them.

“Alteration:” a material or material with a permanent color change in the external architectural features of any building, structure, or site within a Local Historic District.

“Certificate of Appropriateness (COA):” a document, similar to a building permit, issued by the Historic Preservation Commission to individuals or entities proposing to make exterior alterations to any property located within a Local Historic District.

“City:” the City of Lafayette, Indiana

“Classifications:”

- (1) Outstanding (O): the “O” classification means that the property has sufficient historic or architectural significance that is listed, or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state, or national importance.
- (2) Notable (N): a classification of “N” means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.
- (3) Contributing (C): the “C” classification means the property is at least 40 years old, but does not meet the criteria for an “O” or “N” classification. Such resources are important to the density or continuity of the area’s historic fabric. Contributing structures can be listed in the National Register only as part of a historic district.
- (4) Non-Contributing (NC): property classified as “NC” is not included in an inventory unless it is located within the boundaries of a Local Historic District. Such properties may be less than 50 years old, or they may be older structures that have been altered in such a way that they have lost their historic character, or they may be otherwise incompatible with their historic surroundings. These properties are not eligible for listing in the National Register.

“Demolition:” the complete or substantial removal of any building, structure, or site located in a Local Historic District.

“Historic Building or Structure:” refers to those buildings which are listed in the Tippecanoe County Interim Report, Lafayette Preservation Notebook, the Lafayette Inventory of Historic Sites and Structures and those buildings which are either at least 50 years old and possessing identified historic or architectural merit or as determined by the Historic Preservation Officer.

“Local Historic District:” a single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites, the boundaries

of which are described or delineated on a map approved in an ordinance adopted under this title.

“Historic Preservation Officer (HPO):” means the City official who carries out the national historic preservation program and serves as a delegate of the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966.

“Interested Party:” includes but is not limited to one or more of the following:

- (1) the Mayor.
- (2) the City Council.
- (3) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a local historic district as designated by an ordinance adopted under this title.
- (4) an owner or occupant of property located in a local historic district established by an ordinance adopted under this title.
- (5) the Tippecanoe County Historical Association or the Wabash Valley Trust for Historic Preservation.
- (6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.
- (7) the state historic preservation officer designated under I.C. 14-3-3.4-10

“Interim Protection:” may be exercised to protect a historic building, structure, object or site from alteration or demolition. A historic building, structure, object or site under Interim Protection is subject to all regulations pertaining to buildings, structures, objects or sites located within established Local Historic Districts.

“National Register District:” a historic district listed on the National Register of Historic Places. The National Register is this country’s official list of historic properties and resources worthy of preservation. It includes individual buildings, structures, districts, sites and objects that are considered to be significant in American history, architecture, engineering, archeology and/or culture. The National Register makes available specific federal and state tax incentives for preservation purposes, provides a limited degree of protection from the effects of federally assisted undertakings, and qualifies property owners for federal and state grants for preservation purposes, when funds are available.

“Preservation Guidelines:” criteria, locally developed and adopted by the Lafayette Historic Preservation Commission, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction.

“Public Way:” any avenue of public travel or right of way. This includes alleys, sidewalks, streets, and any public facility or property owned or with an easement or similar rights by the City of Lafayette, Tippecanoe County, the State of Indiana, or the Federal Government.

“Routine Maintenance:” work for which no Certificate of Appropriateness is required.

“Streetscape:” appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture and furnishings (e.g., street lights, trash receptacles, benches, or other accouterments, etc.) use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

“Visual Compatibility:” those elements of design that meet the guidelines set forth in Section 12.01.090 of this title.

#### **12.01.030. Historic Preservation Commission Establishment and Organization**

- (a) There is hereby established the Historic Preservation Commission of the City of Lafayette, Indiana (hereinafter referred to as the “Commission”).
- (b) The Commission shall consist of nine (9) voting members. The voting members shall be appointed by the Mayor subject to the approval of the City Council and shall be composed of one architect or architect historian, one regional or local historian, one contractor, one member of the City Council, and five additional residents of the City three of whom must own a historic building listed in the National Register of Historic Places. Nonvoting, advisory member(s) may be appointed to the Commission by the Mayor with approval by the City Council. Commission members shall serve without compensation, except for reasonable expenses incurred in the performance of their duties.
- (c) Voting members shall serve for a term of three (3) years. The term for nonvoting, advisory members shall be for three (3) years. A vacancy shall be filled within ninety (90) days for the duration of the term.
- (d) An employee of the Community Development or Redevelopment Departments shall serve as the ex-officio administrator to the Commission. The administrator shall provide staff assistance to the Commission, act as the Commission’s secretary, and issue Certificates of Appropriateness as directed by the Commission.
- (e) The Commission shall elect from its members a President, Vice-President, and Secretary who shall serve for one (1) year and who may be re-elected no more than three (3) consecutive times for the same position.
- (f) The Commission shall adopt rules for the transaction of its business not inconsistent with this Ordinance. These rules must include the time and place of regular meetings and a procedure for the calling of special meetings.
- (g) Commission meetings must be open to the public in accordance with Indiana’s Open Door Law and a public record shall be kept of the Commission’s

resolutions, proceedings, and actions. The Commission shall hold regular meetings, at least monthly, except when it has no business pending. Special meetings may be called in a manner determined by the Commission and its rules.

#### **12.010.040 Powers and Duties of the Commission**

- (a) The Commission shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in a local historic district, which include but are not limited to viewsheds, landscapes, and streetscapes of historic importance. The Commission may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.
- (b) The Commission shall conduct surveys and establish Local Historic Districts in accordance with the provisions of Section 12.01.050 of this title.
- (c) The Commission may adopt preservation or other guidelines for architectural review. If adopted, these guidelines shall be published and made readily accessible to the general public.
- (d) The Commission has the authority to receive funds in order to promote its stated purpose.
- (e) The Commission shall promote public interest in historic preservation by initiating and carrying on a public relations and community education program.

#### **12.010.050 Local Historic Districts and Guidelines**

- (a) All recommendations for the establishment of a Local Historic District (LHD) shall be in the form of a written report and must be based on the criteria outlined in this section. A recommendation for establishing a LHD may be initiated from either of the following two (2) sources:
  - (1) Based on its survey, the Commission may draw and submit LHD maps to the City Council for approval.
  - (2) Owners of real property wishing to establish a LHD which includes their property may petition the Commission to consider drawing and submitting a map or maps of said property to the City Council for its approval. The Commission may establish in its rules criteria to be met before it considers a petition.
- (b) In order to establish a LHD, the Commission shall first prepare a map describing the district in accordance with the following:
  - (1) The map shall be based on a survey conducted by the Commission which identifies historic buildings, structures, and sites located within the City.



- (2) A district may be limited to the boundaries of a property containing a single building, structure, or site.
- (c) The Commission shall classify and designate on the map all buildings, structures, and sites within each historic district described on the map. Buildings, structures, and sites shall be classified as historic or non-historic. Historic buildings, structures, and sites must possess identified historic or architectural merit of a degree warranting their preservation. The Commission shall further classify and designate all buildings and structures within a proposed historic district as follows:
- (a) Outstanding
  - (b) Notable; or
  - (c) Contributing
- Non-historic buildings, structures, and sites are those not classified on the map as historic.
- (d) Before a district is established and the building classifications take effect, the map setting forth the district's boundaries and building classifications must be submitted to, and approved in an ordinance by, the City Council.
- (e) The map establishing boundaries of a Local Historic District must be recorded in the Office of the Tippecanoe County Recorder.

#### **12.010.060. Interim Protection**

- (a) When submitting a map to the City Council under Section 12.01.050 of this title, the Commission may declare one (1) or more buildings or structures that are classified and designated as historic on the map to be under interim protection.
- (b) Not more than two (2) working days after declaring a building, structure, or site to be under interim protection under this section, the Commission shall, by personal delivery or first class mail, provide the owner or occupant of the building, structure, or site with a written notice of the declaration. In the event the owner cannot be located after due diligence, the Commission shall affix notice of interim protection to the building, structure, or site. The written notice must:
- (1) Cite the authority of the Commission to put the building, structure, or site under interim protection under this section;
  - (2) Explain the effect of putting the building, structure, or site under interim protection; and,
  - (3) Indicate that the interim protection is temporary.
- (c) A building or structure put under interim protection under subsection (a) remains under interim protection until the map is:
- (1) Submitted to; and,
  - (2) Approved in an ordinance or rejected by the City Council. If City Council fails to act upon a submitted ordinance within one hundred twenty (120) days of the date the ordinance was filed with the City Clerk, interim protection will expire.

- (d) While a building, structure, or site is under interim protection under this section:
  - (1) The building, structure, or site may not be demolished or moved; and,
  - (2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:
    - (a) Addition;
    - (b) Reconstruction;
    - (c) Alteration.
- (e) The Commission may approve a Certificate of Appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in Section 12.01.070(d) of this ordinance and any proposed preservation guideline or any other guideline prepared for the building, structure, or site, but the Certificate of Appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure, or site is approved by the City Council.

**12.01.070. Certificates of Appropriateness (COA)**

- (a) A Certificate of Appropriateness must be issued by the Commission before a permit is issued for, or work is begun on any of the following:
  - (1) Within all areas of a Local Historic District:
    - (a) The demolition of any building or structure;
    - (b) The moving of any building or structure;
    - (c) A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving, streetscape and signs by additions, reconstruction, or alteration;
    - (d) Any new construction of a principle building or accessory building or structure subject to view from a public way, or
    - (e) A conspicuous change in the exterior appearance of non-historic buildings subject to view from a public way by additions, reconstruction, and/or alteration.
- (b) An application for a Certificate of Appropriateness shall be made in the Community Development or Redevelopment Departments of the City of Lafayette on forms provided by that office. All applicants shall be subject to the rules and requirements established by the Commission. Rules may include, but are not limited to, filing deadlines and application requirements such as sketches, drawings, photographs, descriptions, or other information which the Commission requires to make a decision.
- (c) The Commission may advise and make recommendations to the applicant before action on an application for a Certificate of Appropriateness.
  - (1) If an application for a Certificate of Appropriateness:
    - (a) is approved by the Commission; or
    - (b) is not acted on by the Commission within thirty (30) days after it is filed;



a Certificate of Appropriateness shall be issued. If the Certificate is issued, the applicant must proceed in the same manner as applications for building or demolition permits as required by the City, if any, are processed. If no building or demolition permits are required by the City, the applicant may proceed with the work authorized by the Certificate.

- (2) If the Commission denies an application for a Certificate of Appropriateness within thirty (30) days after it is filed, the Certificate may not be issued. The Commission must state its reasons for the denial in writing, and must advise the applicant. An application that has been denied may not be processed as an application for a building or demolition permit and does not authorize any work by the applicant. The Applicant may appeal the denial of a Certificate of Appropriateness as set forth in Section 12.01.110.
  - (3) The Commission may grant an extension of the thirty (30) day limit prescribed by subsections (1) and (2) if the applicant agrees to it.
- (d) The Commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of a historic building, structure, site or any part of the appurtenance to such building or structure, including walls, fences, light fixtures, steps, paving, and signs shall require that such work be done in a manner that will preserve the historic and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Commission shall consider, among other things, the following:
- (1) Purposes of this title;
  - (2) Historic and Architectural value and significance of the building, structure, site or appurtenance;
  - (3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
  - (4) The texture, material, style, and detailing of the building, structure, site or appurtenance;
  - (5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;
  - (6) The relationship of buildings, structures, appurtenances, or architectural features similar to those within the same historic district visual compatibility as defined in Section 12.01.090; and
  - (7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.
- (e) Once a Certificate of Appropriateness is issued, the form must be posted on site in a conspicuous area prior to the commencement of approved work.

#### **12.01.080 Staff Approvals**

- (a) The Commission may authorize the staff of the Commission, on behalf of the Commission, to grant or deny an application for a Certificate of Appropriateness via an adopted resolution.

- (b) The Commission shall specify by resolution the types of applications for Certificates of Appropriateness that the staff of the Commission is authorized to grant or deny. The staff may not be authorized to grant or deny an application for a Certificate of Appropriateness for the following:
  - (1) The demolition of a building, structure, or site.
  - (2) The moving of a building or structure.
  - (3) The construction of an addition to a building or structure.
  - (4) The construction of a new building or structure.
- (c) If any applicant is aggrieved by staff's denial of a Certificate of Appropriateness, within seven (7) days of notice of the denial, the Applicant may request that the application for a Certificate of Appropriateness be heard by the Historic Preservation Commission at the next regularly scheduled meeting.

#### **12.01.090. Visual Compatibility**

- (a) To preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work, the construction of a new building or structure, and the moving, reconstruction, alteration, major maintenance, or repair conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within a Local Historic District must be generally of a design, form, proportion, mass, configuration, building material, texture, and location on a lot compatible with other buildings in the Local Historic District and with places to which it is visually related.
- (b) Within a Local Historic District, new buildings, structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, or repaired, must be visually compatible with buildings and places to which they are visually related generally in terms of the following visual compatibility factors:
  - (1) Height: the height of proposed buildings must be visually compatible with adjacent buildings.
  - (2) Proportion of building's façade: the relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares, and places to which it is visually related.
  - (3) Proportion of openings within the facility: the relationship of the width of the windows to the height of the windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
  - (4) Relationship of solids to voids on façades: the relationship of solids to voids on the façade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
  - (5) Rhythm of spacing of buildings on streets: the relationship of a building to the open space between it and adjoining buildings must be visually compatible with buildings, squares, and places to which it is visually related.

- (6) Rhythm of entrances and porch projections: the relationship of entrances and porch projections of a building to sidewalks and driveways must be visually compatible with buildings, squares, and places to which it is visually related.
- (7) Relationship of materials, texture, and color: the relationship of the materials, including color of permanent materials, and texture, of the façade of a building must be visually compatible with buildings, squares, and places to which it is visually related.
- (8) Roof shapes: the roof shape of a building must be visually compatible with the buildings, squares, and places to which it is visually related.
- (9) Wall of continuity: appurtenances of a building or site, such as walls, wrought iron fences, landscape/planting masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings and places to which it is visually related.
- (10) Scale of the building: the size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings and places to which it is visually related.
- (11) Directional expression of front elevation: a building must be visually compatible with buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

**12.01.100. Preservation of Historic and Architectural Character upon Alteration or Relocation Mandated**

- (a) A historic building or structure or any part or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historic and architectural character of the building, structure, or appurtenance.
- (b) A historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (a).

**12.010.110. Appeal Provisions**

- (a) There is hereby created an Appeal Board to review the decisions of the Historic Preservation Commission which shall consist of the following:
  - (1) The Mayor of the City of Lafayette or their designee ;
  - (2) The City Engineer or their designee; and
  - (3) A Board Member of a local historic preservation organization as appointed by the Mayor.
- (b) In the event any party receives a decision from the Historic Preservation Commission which they desire to appeal, they may initiate an appeal with the Appeal Board as follows:
  - (1) Within thirty (30) days after receiving the decision of the Historic Preservation Commission as set forth in Section 12.01.070 of this document, the applicant shall file with the Appeal Board a written

explanation of why the applicant believes the decisions of the Commission erroneous.

- (2) Within thirty (30) days after the request for review by the Appeal Board is filed, a decision shall be issued which shall either affirm the decision of the Historic Preservation Commission or reverse the decision. Should the decision of the Appeal Board be in favor of the applicant, the Historic Preservation Commission shall then issue the Certificate of Appropriateness.
- (3) When the decision of the Historic Preservation Commission relates to the demolition of a building, which is denied, the foregoing procedures shall be followed, however, the property owner shall be required to show the Appeal Board that a historic building is incapable of earning an economic return on its value, as appraised by a certified real estate appraiser, the Appeal board shall grant the Certificate of Appropriateness upon the following terms and conditions:
  - (a) Before a demolition permit is issued or demolition proceeds, notice of the proposed demolition must be given for a period of not less than sixty (60) days to the actual demolition.
  - (b) Notice of demolition of the proposed demolition must be posted on the premises of the building proposed for demolition in a location clearly visible from the street.
  - (c) Similar notice must be published in a newspaper of general local circulation at least three times before the demolition with the first publication not more than fifteen (15) days after the application for a permit to demolish is filed and the final publication at least fifteen (15) days before the date of the issuance of the permit. Proof of publication must be submitted to the office of the Lafayette Community Development or Redevelopment Departments prior to the demolition permit being issued.

#### **12.01.120. Maintenance**

- (a) Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features.
- (b) Nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, location, or external visual appearance of any structure, or part thereof.

#### **12.01.130. Relationships with Zoning Districts**

- (a) Zoning districts lying within the boundaries of any local historic district are subject to regulations for both the zoning district and the local historic district. If there is a conflict between the requirements of the zoning district and the requirements of the local historic district, the more restrictive requirements shall apply.

#### **12.01.140. Paint Color**

- (a) The Commission shall not govern new paint color of previously painted materials. Any guidance on paint color of previously painted materials provided by the Commission or Commission Staff is advisory in nature.
- (b) The Commission shall govern the color of permanent materials including, but not limited to: glass, anodized aluminum, and/or masonry.

#### **12.01.150. Interested Parties**

- (a) An Interested Party has a private right of action to enforce and prevent violations of this Ordinance, and has the right to restrain or enjoin, temporarily or permanently, any person from violating a provision of this Ordinance.
- (b) The Interested Party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.
- (c) The Interested Party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.
- (d) The Interested Party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this ordinance, had been, or was about to be violated.
- (e) An Interested Party who obtains a favorable judgment in an action under this section may recover reasonable attorney fees and court costs from the person against whom judgment was rendered.
- (f) An action arising under this section must be brought in the circuit or superior court of Tippecanoe County and no change of venue from the county shall be allowed in the action.
- (g) The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

#### **12.01.160 Enforcement, Penalties, and Judicial Review**

- (a) In the event of a violation of this Ordinance, by any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, Commission Staff must notify the individual(s) responsible for the violation in writing. Violators will have fifteen (15) business days following the notice to correct the violation to the standards of the Commission without penalty. If the violation is such that it is not fully curable within fifteen (15) business days, the Violators must commence such curing within fifteen (15) business days following the notice to correct the violation and continue with due diligence thereafter. If after fifteen (15) business days the violation is still in effect, or a reasonable cure has not been commenced, the responsible party will be fined for each offense as follows:

- (1) Twenty-five hundred dollars (\$2,500.00) for demolition in part or in total; and,
- (2) Fifty dollars (\$50.00) for all other offenses.
- (3) Fines shall accrue daily for each offense, beginning on the day the offense is reported and documented by Commission Staff, with a maximum accrued fine of seven-thousand five hundred dollars (\$7,500) per parcel.
- (4) Any and all fines collected from violations of this ordinance must be used to benefit historic buildings and structures located within established local historic districts.

- (c) Each day of the existence of any violations of this ordinance shall be a separate offense.
- (d) The erection, construction, enlargement, alteration, repair, demolition, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provisions of this ordinance is hereby declared to be a nuisance and in violation of this ordinance and unlawful. The City may institute a suit for injunction in the Circuit Court or Superior Court of Tippecanoe County to restrain any person or government unit from violating any provision of this ordinance and to cause such violation to be prevented, abated, or removed.
- (e) The remedies provided for in this section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.
- (f) Any person or party aggrieved by a decision or action taken by the Commission shall be entitled to a judicial review hereof in accordance with I.C. 36-7-7.3-59.

#### **12.01.170 Severability**

- (a) If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.



**ADOPTED AND PASSED** by the Common Council of the City of Lafayette, Indiana,  
this \_\_\_\_day of \_\_\_\_, 2010.

LAFAYETTE CITY COUNCIL

By: \_\_\_\_\_ s/s  
Melissa Weast-Williamson, President

ATTEST:

\_\_\_\_\_  
s/s  
Cindy Murray, City Clerk

Presented by me to the Mayor of the City of Lafayette, Indiana, on the \_\_\_\_day of \_\_\_\_,  
2010.

\_\_\_\_\_  
s/s  
Cindy Murray, City Clerk

Approved and signed by me on the \_\_\_\_day of \_\_\_\_, 2010.

\_\_\_\_\_  
s/s  
Tony Roswarski, Mayor

ATTEST:

\_\_\_\_\_  
s/s  
Cindy Murray, City Clerk

Sponsored by Lon Heide and Steve Meyer.